

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P.No.10623 of 2018
and
Crl.MP.Nos.5451 & 5452 of 2018

R.Geetha ... Petitioner/ Accused

vs.

S.Prakash ...Respondent/ Complainant

Criminal Original Petition filed under Section 407 Cr.P.C. seeking to withdraw the STC.No.238 of 2017 pending on the file of Fast Track Court, Hosur and transfer the same to Fast Tract Court, Sivakasi.

For petitioner : Mr.M.Mariappan

O R D E R

This Criminal Original Petition has been filed to withdraw STC.No.238 of 2017, pending on the file of the Fast Track Court, Hosur and transfer the same to Fast Track Court, Sivakasi.

2. For the sake of convenience, the parties are referred to as the complainant and the accused. The complainant has initiated prosecution in STC.No.238 of 2017 and the same is pending on the file of the Judicial Magistrate, Fast Track Court, Hosur. While so, the accused has filed the present petition for transferring the case from Hosur to Sivakasi on the ground that the accused is physically indisposed.

3. Heard the learned counsel for the accused.

4. The trial under Section 138 of the Negotiable Instrument Act is a summary trial and the same has to be completed within a period of six months, as amended by the Negotiable Instrument Act. That apart, the physical health of the accused cannot be a reason to transfer the prosecution from Hosur to Sivakasi, as it would cause serious prejudice to the prosecution witnesses. However, taking into consideration the submission of the learned counsel for the accused that the accused is a lady and she is suffering from serious illness, this Court directs the accused to appear before the trial Court within a period of two weeks

from the date of receipt of a copy of this Order. On such appearance, the trial Court is directed to release the accused on bail under Section 436 Cr.P.C. on she executing a bond for Rs.10,000/- with two sureties to the said amount on the same day. Thereafter, the accused shall appear before the trial Court for receiving the complaint, for answering the charge, at the time of questioning under Section 313, Cr.P.C. and at the time of passing judgment. The accused shall file an affidavit of undertaking before the trial Court that she will not dispute her identity and that the counsel named by her in the affidavit will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab, [2015 (1) MLJ (CrI.) 288]. The trial Court shall liberally consider and dispense with the appearance of the accused. If the petitioner adopts any dilatory tactics, the trial Court can insist upon her presence. If the accused absconds, a fresh FIR can be registered against her under Section 229-A IPC.

With the above direction, this petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

lok

To

1.The Additional District and Sessions Judge,
Fast Track Court, Hosur

2.The Additional District and Sessions Judge,
Fast Tract Court, Sivakasi.

+1cc to Mr.N.Chinnaraj, Advocate, S.R.No.26001

CrI.O.P.No.10623 of 2018 and
CrI.MP.Nos.5451 & 5452 of 2018

EV(CO)

RRK(23/04/2018)